

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1634.00
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: October 10, 2000
DATE OF REPORT: November 20, 2000
REQUEST FOR RECONSIDERATION: yes
DATE OF CLOSURE: September 24, 2001

COMPLAINT ISSUES:

Whether the Valparaiso Community Schools and the Porter County Education Interlocal violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. utilizing therapeutic holds when the student becomes disruptive although the behavior intervention plan indicates otherwise; and
- b. failing to ensure the student's teacher refrains from making sarcastic and inappropriate comments to the student.

511 IAC 7-27-3(f) with regard to the school's alleged failure to include the paraprofessional (behavior specialist) as a participant in the student's case conference committee (CCC) meeting.

511 IAC 7-21-2(c) with regard to the school's alleged failure to provide preservice and inservice training to the paraprofessional (behavior specialist).

511 IAC 7-21-2(a) with regard to the school's alleged failure:

- a. to ensure the paraprofessional (behavior specialist) is appropriately licensed or certified to provide the services for which the individual is employed or contracted; and
- b. to utilize an appropriately licensed teacher to instruct a student with an emotional handicap.

The complaint report was originally due on November 9, 2000; however, due to the need to obtain additional information from the school an extension was approved by the state director of special education extending the deadline until November 22, 2000.

FINDINGS OF FACT:

1. The student is fifteen years old and is in the tenth grade. He has been determined eligible for special education due to an emotional handicap.
2. On September 18, 2000, a CCC meeting was convened to discuss concerns regarding the student's disruptive behavior at school. The parent took the September 18th IEP/CCC Report home with her for review, and returned the document to the school on September 22, 2000. During this time period, the parent made a unilateral decision to write additional comments on the IEP/CCC Report. The additional comments written on the report addressed the use of therapeutic holds and the teacher refraining from using inappropriate comments with the student. The parent signed the IEP on September 22, 2000, and wrote by her signature that permission to implement the recommendations of the CCC were contingent upon implementing the additional notes written on

the IEP/CCC Report by the parent. The supervisor states the school has only implemented those recommendations that were written on the IEP/CCC Report at the time of the CCC meeting.

3. The complainant alleges that she has repeatedly requested the attendance of the paraprofessional (behavior specialist) at all CCC meetings, but her requests have been denied by the school. The director confirms that the parent has made this request. The supervisor reports in her written response that "behavior specialist" is a title given to paraprofessionals who are contracted for assistance in the classroom through the local community mental health center. The supervisor's written response indicates paraprofessionals rarely attend CCC meetings because the meetings either occur after the school day or would jeopardize the stability of the classroom by having both the teacher and the paraprofessional at the same meeting.
4. In letters dated August 22, 2000, and November 17, 2000, from the vice-president of the local community mental health center, the vice-president substantiates that the paraprofessional (behavior specialist) has received preservice and inservice training that complies with the requirements specified in 511 IAC 7-21-2(c). According to the vice-president, the paraprofessional was hired on February 21, 2000, and has received the following training:
 - a. agency/job orientation training during the first week of employment;
 - b. two weeks of training for the alternative care program; and
 - c. quarterly training sessions relevant to student care held in March, June, and September, 2000.
5. Article 7 does not require any type of license or certification for paraprofessionals.
6. The Student's teacher of service is the teacher of record. A copy of the license for the student's teacher of record documents that the teacher has a bachelor's degree in special education. She is licensed to teach seriously emotionally handicapped students from kindergarten through twelfth grade. The teacher's license is valid through June 30, 2001.

CONCLUSIONS:

1. Finding of Fact #2 reflects the school and the parent did not reach agreement regarding the student's amended IEP at the CCC meeting convened on September 18, 2000. Absent an agreed upon IEP, the Division cannot substantiate any violations of 511 IAC 7-27-7(a) for failing to implement specific components of that IEP.
2. Finding of Fact #3 indicates the parent requested the paraprofessional's attendance at the CCC meetings, but the school declined to release the paraprofessional from service in order to attend. Although a parent may invite other school staff to the CCC meeting, the school is not required to release such staff from service. Therefore, no violation of 511 IAC 7-27-3(f) is found.
3. Finding of Fact #4 reflects the school provided the paraprofessional (behavior specialist) with preservice and inservice training. Therefore, no violation of 511 IAC 7-21-2(c) is found.
4. Finding of Fact #5 indicates there is no license or certification required for paraprofessionals. Therefore, no violation 511 IAC 7-21-2(a) is found.
5. Finding of Fact #6 reflects the student's teacher of record/service is appropriately licensed to instruct a student with an emotional handicap and has the proper credentials to monitor the implementation of the student's IEP. Therefore, no violation of 511 IAC 7-21-2(a) is found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

The Valparaiso Community Schools and the Porter County Education Interlocal shall:

1. Notify the parent that a CCC meeting must be convened no later than December 20, 2000, to develop an appropriate IEP for the student. At the CCC meeting the need for compensatory educational services shall be determined for the student. Should the parent refuse to attend the CCC meeting or declined to sign the IEP as written within ten calendar days from the date of the CCC meeting, the school shall pursue mediation (if the parent agrees) or initiate a due process hearing no later than January 5, 2001. If a CCC meeting is convened, and the parent agrees with the recommendations and signs the IEP, a copy of the IEP and CCC Report shall be submitted to the Division no later than January 5, 2001.

DATE REPORT COMPLETED: November 20, 2000